IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWELFTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 8973 of 2003

Between:

Kandamoori Nageswara rao s/o. satyacharyulu, r/o Borraampalem, T.Narsapuram mandal, West Godavari District .

..... PETITIONER

AND

1. Sri kodanda rama swamivari temple, Borrampalem, represented by its person-in-management, Borrampalem village, T.Narsapuram mandal, West Godavari District
2. Assistant Commissioner of Endowments Eluru, West Godavari District.

.....RESPONDENTS.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, direction or order more particularly one in the nature of mandamus declaring the action of the first respondent in issuing notice bearing No. 152/2003-4 dated 15-04-2003 under Rule 5(1) without any enquiry and adjudication under Rule 3 of the Rules under G.O.Ms.No. 379, Revenue (Endts-1) Department, dated 11-03-2003 as illegal and without jurisdiction and further direct second respondent to conduct enquiry and adjudicate the claims of the petitioner under Rule 3 thereof, before taking any action under Rule 5 thereof

Counsel for the Petitioner:MR.M.V.DURGA PRASAD

Counsel for Respondent No 1: MR. METTACHENDRA SEKHAR RAO,Standing Counsel

Counsel for Respondent No.2: G.P. for Endowments.

The Court made the following :

ORDER:

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The counsel for the petitioner as well as the respondents submitted that the writ petition can be disposed of in the light of the order passed by this Court in W.P.No.10573 of 2003.

2. This Court disposed of the W.P.No.10573 of 2003 with the following directions:

a. If the petitioner claims the status of a landless poor, it shall be open to him to approach the concerned Assistant Commissioner of Endowments, with an appropriate application, within two weeks from the date on which the copy of the order is furnished to him by the court. On such application being made, the concerned Assistant Commissioner shall decide the matter in accordance with the guidelines and conditions laid down in the explanation to Section 82 of the Act 30/87, duly putting the tenant as well as the temple on notice; and pass appropriate orders within one month from the date of presentation of the application. This exercise shall not be necessary, if the status of such tenants were already decided.

b. If the tenant is declared as landless poor as defined in the explanation to Section 82, through an order by the Assistant Commissioner of Endowments, such tenant shall be entitled to be continued as lessee at the rates fixed by verification or by holding auction; for an extent of land, not exceeding the limits stipulated in the explanation. Except where such person emerges as the highest bidder, he shall be liable to surrender the remaining land.

c. The question of sale of any land belonging to temple would arise, if only, a decision in that regard is taken by the concerned Trust Board for the genuine needs of the temple and subject to approval by the authorities prescribed under the Act. If the decision to sell any land is taken in the manner stipulated above in the interests of the concerned temple, the right of the tenant declared as landless poor to purchase such land, as contemplated in the rules issued in G.O.Ms.No.379, dated 11-03-2003 would arise, for an extent not exceeding the limits stipulated under the explanation to

Section 82.

3. In view of the same, this writ petition is also disposed of with the similar directions pending determination of the status of the tenant by the Assistant Commissioner, no steps shall be taken to dispossess the tenant. The concerned authority shall fix the rate of lease for the land by collecting necessary information or by inviting bids. The figure so arrived at shall hold good for the current agricultural season. In case the existing tenant is not agreeable to pay such amount, it shall be open to the authorities of the temple as well as the Endowments Department to resume the land and put it to auction. Even if any auctions are held by the time the orders are communicated, the same shall not be confirmed till the exercise indicated above is completed. No costs.

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A.GOPAL REDDY,J.

12th July, 2004.

Chvn.

ASSISTANT REGISTRAR.

//TRUE COPY //

SECTION OFFICER.

To

1. The Person-in-management, Sri Kodandarama Swamivari Temple, Borrampalem village, T.Narasapuram Mandal, West Godavari District.
2. The Assistant Commissioner of Endowments, Eluru, West Godavari District.
3. The Commissioner of Endowments, Endowments Department, Govt. of A.P., Tilak Road, Abids, Hyderabad.
4. Two C.Cs. to the G.P. for Endowments, High Court Buildings, Hyderabad (OUT).

5. Two C.D.copies.